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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,534	01/21/2004	Richard Howard Rubin	12791/1	1087

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EXAMINER

DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,534

Applicant(s)

RUBIN, RICHARD HOWARD

Examiner

Hemant M. Desai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

"napkin 15", page 5, lines 18, 21-22, 23 should be "napkin 22".

Appropriate correction is required.

Claim Objections

2. Claim 28 is objected to because of the following informalities: claim 28 should depend on claim 15. For Examination purpose Examiner assumes that claim 28 is depending on claim 15.

Appropriate correction is required.

MISCELLANEOUS

3. Claims 1-3 are written in "means plus function" form and since they meet the analysis set forth in MPEP 2181, the Examiner assumes that applicant wishes to invoke 35USC112, paragraph 6.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13, 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (6202387).

Note that the child patent (6023013), which Brown et al. disclose in col. 4, lines 31-33, discloses in more detail the method and apparatus for wrapping the silverware. The child patent ('013) discloses an apparatus and method for wrapping silverware comprising a first holder (38a, fig. 11) for holding first item (110, fig. 11) to be wrapped, a table (24, fig. 2), an equivalent means (pick-up means 48, 50, fig. 3) for placing wrapping material (36, fig. 3) on the table, an equivalent means for moving (dispensing system 100, figs. 11-13) one of the first items (110, fig. 12-13) to be wrapped from the first holder (38a, fig. 11) on to the wrapping material (36), a wrapping mechanism (40, figs. 17-20) for wrapping the first item in the wrapping material.

Brown et al. (child patent '013), as mentioned above, disclose a working table (24) and one dispensing system (100) to dispense the items (110, 112, 114, fig. 11) to be wrapped. Brown et al. do not disclose expressly the rotating table. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the rotating table with two different dispensing systems because Applicant has not disclosed that the rotating table and two dispensing systems provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the one dispensing system and a work table taught by Brown et al. or the claimed rotating table and two dispensing systems because both the claimed rotating table and two dispensing systems and work table and one dispensing system of Brown et al. perform the same function of wrapping the items in the in the wrapping material. Therefore, It would have been an obvious matter of

design choice to modify Brown et al. to obtain the invention as specified in claims 1-4 and 15-18.

Regarding claim 15, the modified method of Brown et al., as mentioned above meets all the claimed limitations of claim 15.

Regarding claims 2-3 and 16-17, the modified child patent ('013) discloses a second holder (38b, fig. 11) for holding second items (112, fig. 11) to be wrapped, and means for moving (dispensing system 100, figs. 11-13) one of the second items (112, fig. 11-13) to be wrapped from the second holder (38b, fig. 11) on to the wrapping material (36) on the table (24).

Regarding claims 4 and 18, the modified child patent ('013) discloses that a wrapping station (40, figs. 17-20) disposed adjacent to the table.

Regarding claims 5-6 and 19-20, Brown et al. (child patent '013), as mentioned above, disclose a cassette (dispensing system 100, fig. 11) that holds the plurality of first items (110), and ejects one of the first items upon receipt of a corresponding signal (from controller 92, fig. 1; see col. 8, lines 20-24). Brown et al. do not disclose expressly the rotary cassette includes holders forming a rotary belt. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the rotary cassette includes holders forming a rotary belt because Applicant has not disclosed that the rotary cassette includes holders forming a rotary belt provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the cassette taught by Brown et al. or the

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claimed rotary cassette includes holders forming a rotary belt because both the claimed cassettes perform the same function of holding and dispensing the first items upon receipt of a corresponding signal. Therefore, It would have been an obvious matter of design choice to modify Brown et al. to obtain the invention as specified in claims 5-6.

Regarding claims 7 and 21, Brown et al. (child patent '013) disclose that the holder (38, fig. 11) in the cassette (100, fig. 11) includes a clip (120, figs. 12-13) for gripping one of the items.

Regarding claims 8 and 22, Brown et al. (child patent '013) disclose that an electronic interface (controller 92, fig. 1; see col. 8, lines 20-24) that allows a user to control whether the first and second holders will release first and second items.

Regarding claims 9-10 and 23-24, Brown et al. disclose that a banding station (20, fig. 4) that applies a band (36, fig. 5) to the wrapped first item (22, figs. 9-12).

Regarding claims 11 and 25, Brown et al. (child patent '013) disclose that the means for placing a wrapping material on the rotating table (48, fig. 3) comprises an elevator (54, fig. 3) for raising the wrapping material (36) to a desired position, and means for removing the wrapping material (50, fig. 3) from the elevator platform.

Regarding claims 12-13, and 26-27 Brown et al. disclose the first items to be wrapped are eating utensils and the wrapping material is a napkin.

6. Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. in view of Heisey (6615566).

The modified methods and apparatus for wrapping the silverware of Brown et al., as mentioned above, meets all the claimed limitations, except for folding a corner of the

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wrapping material over the item. However, Heisey teaches pincher rods (engaging devices 66, 68, figs. 1, 3-4) for folding a corner of the wrapping material over the item so that the finished napkin bundle is both more secure and sanitary than would be the case with an open-ended bundle (see col. 4, lines 40-47). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide pincher rods for folding a corner of the wrapping material over the item as taught by Heisey in the modified method and apparatus for wrapping the silverware of Brown et al. so that the finished napkin bundle is both more secure and sanitary than would be the case with an open-ended bundle.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 7:00 AM-5: 30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hemant M. Desai
HMD